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ABSTRACT

Questioning the desirability of whether private schools should receive federal or state aid, the paper outlines how such aid can cause entanglement problems for private schools. In accepting governmental aid, private schools can lose their autonomy, including (1) the ability to select and dismiss students with autonomy, (2) the ability to advocate a set of moral beliefs, (3) operation under contractual law rather than constitutional law with employees, and (4) independence in operation and ideology. Six other areas of concern connected with possible problems in public funding of private schools are listed. The funding of nonpublic schools through traditional means such as nondeductible tuitions, tax deductible donations, limited categorical aid, competitive grants, textbook loans, and child care deductions is advocated. Letting the marketplace forces operate on private schools exerts pressure on the less fit schools to either improve or cease to exist. Governmental aid would encroach upon the reasons nonpublic schools exist and have thrived. A 25-item bibliography is provided with the report. (MD)

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Let the Marketplace Decide the Viability of Independent Schools

Part of a Symposium
on

GOVERNMENT FINANCING FOR
PRIVATE SCHOOLS: Pros and Cons

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Let the Marketplace Decide the Viability of Independent Schools

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Most of the current funding sources for most non-public schools have and still do come from attracting contributions or tuitions in a competitive marketplace. The federal government does supply aid proportional to the incomes of donors by allowing deductions which in effect is a matching gift to any not-for-profit school. This is justified on the basis that any not-for-profit organization contributes to the betterment of our society. The system gathers dollar votes from the wealthy, corporations, or foundations in the form of donations reported on a tax form and then grants aid to that organization by defraying taxes of the giver. The system has worked well, but as taxes are lowered, the equivalent amount of funding by the government diminishes for each dollar vote cast. Such a system relieves the government from setting up a system to determine who should get the non-tuition dollars by letting the marketplace for philanthropic dollars decide which schools receive this needed funding.

The federal government also declines to tax ancillary operations of many institutions which help defray deficits in the main operation. In this manner, self-help and catering to the market for services are encouraged by the federal government. The market for services includes providing games of chance such as bingo, as well as paper drives, auctions, and summer camps.

Most states aid non-public schools in the same manner as the federal government. Certain other types of aid that some states furnish is in the health and safety area (e.g. nurses, busing), some diagnostic and remedial help, and textbook loans to students. Students, not the schools, are legally the recipients of such aid.

Minnesota grants all parents a tax deduction, for a limited amount of educational expenses, which evidently favors parents of non-public students. This later type of aid allows a school to charge a tuition which is closer to a fair share of operational costs and may encourage more parents to apply, which may fill empty seats, but it does not provide development or improvement monies unless parents donate their tax benefit. The school competes for student tuition dollars in the same way it has always done. There is just relief for the private school parent.

Local governments have served not-for-profit schools by providing services (e.g. police and fire), and in some instances contracting for the education of isolated rural students, the total student population of small communities, or special education students. (Ralph West has conducted and written of an excellent study, The New England Academy: A Private School in a Public Role. Feb. 1977, New England Association of Schools and Colleges, Inc. Burlington, Mass. This surveys the tuition contracts between public school boards and private schools.) Contracting for services has an interesting relationship (akin to Chapter 2 block grant responsibilities) in that the public school board remains responsible for legal mandates (e.g. educating the

orthopedically handicapped child with little entanglement in some cases with the private school. West found that the schools were considered public by state departments of education, yet not restricted. The public school superintendent dealt mainly with tuition charge debates (which could fetter a school head) while the programs and services were devised by professionals in the private school with Trustee approval. Programs and services were the concern of parents and students, but other than starting a public school in the rural areas or sending to another district, most parents certainly did not have marketplace freedom as under the voucher systems proposed in the last decades. More freedom may exist with placement of special education students (not surveyed by West), however state approval of these institutions often involves more entanglement and few places are available. Under contract arrangement, the school district or state buys a service in the marketplace. Parallel decisions are made when municipalities choose between private utilities and garbage collectors or starting a municipal service. However, education is a required service under state constitutions; this added factor probably gives the states power to insure quality and equal access.

This arrangement brings to the fore my basis of questioning the desirability of increased aid to non-public schools. (I must hasten to add that the schools described in that exemplar study, Inner-city Private Elementary Schools by James G. Cibulka, Timothy O'Brien, and Donald Zewe, are exempted from my conclusion that further governmental aid would not better non-public schools. With the parish or "mission" schools to the inner-city or other groups who cannot pay for a viable school, the refundable tax credit does appear to help. I do wonder why regionalization or Diocesan magnet schools cannot solve some problems; there have been successes as in Omaha, Nebraska, but possibly time will allow discussion on how to allow the fine schools of our inner-cities to survive. It is these schools that still are in the dire situation which even suburban schools faced in the 1960's and 1970's.) The cries for even small amounts of aid to help preserve the non-public school movement are not relevant to most non-public schools outside the cities. Increased aid might help start small Christian schools that lack wealthy parents and have no wealthy philanthropists(s) in the wings. (There are valid cries for increased pay among independent school teachers, who might benefit by increased tuitions if aid is granted.)

TO GET BACK TO MY QUESTIONING OF THE DESIRABILITY FOR SCHOOLS TO RECEIVE MORE AID THAN AT PRESENT:

The contracting and other forms of governmental aid can be evaluated, not only from the constitutional law debates on free exercise, establishment, and entanglement, but from observations from within the current operation of non-public schools and some prediction of a minimum of public accountability in the spending of public funds. My personal background as an assistant superintendent in Long Branch, New Jersey's public schools before becoming a consultant for independent and religious schools has sensitized me to some important characteristics of independent and religious system schools that probably allow them to be successful alternatives to the public system.

West (p. 12 of his report, supra) questions, "Is there a level of funding at which state and local jurisdictional interests become transcendent?" In other words, without entanglement, can a school become so dependent upon public school funding that decisions from within can become impaired by the

desire to preserve funds from the government. At this point, the school is certainly not an independent institution nor is a religious system independent of the government, no matter how separated the educational bureaucracy of the government. Two instances can serve as illustrations: The Mary Ann Frostig Center (Pasadena, CA) and the Pennsylvania School for the Deaf (Philadelpha, PA) who either were given state aid for each child received or billed the public treasury for tuition. Each school became heavily dependent on school districts to send students. As the districts absorbed the more moderately handicapped into the mainstreamed, district classes, the schools found themselves accepting children with more severe or multiple handicaps. Such admissions, motivated by maintaining a revenue source changed the atmosphere of the school. Furthermore, it is possible that any school would not be as effective with the new type of student since the staff had been selected and the school had been founded for other reasons. Research aspects are often neglected when service to the public school needs predominates. The purpose of the institution becomes one of survival, not the cause for which it was founded. Trustees and administrators feel frustrated when enrollment pressures drop from the pool of students they wanted to serve.

With schools receiving a large body of students from a sending district, there is always a threat of the district walking-out and setting up its own school. West saw the lack of long-range planning a symptom of short-term contracts which lessened the leadership role of the head and school in general. (State Commissioner's hold conservative power over sending school arrangements to prevent unnecessary problems among public districts but not necessarily between private schools and public school boards.)

*** What happened in these situations of heavy governmental funding is that the private school gave up one of its primary operational assets:

1. The ability to select or dismiss students with administrative autonomy and under contract, rather than constitutional, law.

Consider if some voucher systems would allow the breaking of the contract by expelling a child and no refund of tuition. Would states allow a contractural provision for unilateral dismissal of a student with no refund? Would significant governmental aid require lavatories, ramps, and elevators with renovations so the handicapped would have equal access to independent schools if they met other admission requirements?

*** Let's look at another clear operational asset for private schools:

2. The ability to advocate a pervasive set of moral beliefs and code among faculty and student so as to cultivate scholastic and behavioral self- and peer-discipline. Such special spirit of common belief is motivating for many students and is soothing to worried parents who see temptations for their youngsters everywhere.

Stephen Arons, in a commentary in the Nov. 7, 1984 issue of Education Week, points out the absurdities of claiming public schools do not espouse values in his The Myth of Value-Neutral Schooling. But such value

education is not under central control in public schools, and that is where the strength of non-public schooling is contractual rather than constitutional law. Constitutional law thwarts advocacy action on the basis of values. For instance, can a public school dismiss a student on the basis of actions committed off campus in the community. Can a teacher not be renewed because of sexual improprieties in his or her private life? Public schools are bound by "due proces" as agents of the state; private schools that are funded heavily by public funds may become agents of the state too. Tax credits limited to 50% of tuition might better be limited to 49% of tuition to maintain being more than half a contract-law school.

*** A third operational asset for private schools is that they operate under contractual law, rather than constitutional law, with regard to employees.

Letting alone the constitutional rights associated with state funded education, how would the state make sure that a school was not perpetuating some anti-social doctrine or attitudes? Some Black Muslim schools (see PDK's fastback #78 by Otto F. Kraushaar, Private Schools: From the Puritans to the Present, 1976) might have been considered anti-social. Most schemes for increased aid demand the school be not-for-profit, but not all schools are separated from the church by charter. Most churches I assume are not-for-profit; are their schools automatically considered racially non-discriminatory and not preaching socially undesirable attitudes that undermine the rights of others or at least warp the innocent minds of youth? My statements are strong, because if aid is increased from the state, one can predict that State Commissioners of education will assume the posture of a consumer. To protect the general welfare of the public and guarantee the child is getting a valid education in typing, computers, chemistry, foreign language, social studies, reading, etc., the state will naturally hold receivers of aid accountable. If the aid is given to parents, then must parents justify their choice of school to the State? In all probability, some schools will become "approved", rather than having the state test children of numerous private school families. Entanglement will increase unless the nation is willing to allow some anti-social or poor education to exist without accountability

But you say, "If I want to preserve ideological autonomy, I can refuse aid." Imagine yourself as a head of a school asking for a $500 raise in tuition. What chance would you have saying that we also have decided to not allow parents to have the $400 tax credit or have decided to refuse the vouchers and thus anticipate a deficit due to empty seats? (Parents will probably urge the Board and administration to lobby for more aid, but since your non-profit status forbids this, a separate parents organization will now register as a lobbyist.)

In short, independence in operation and idealogy may not be preserved by getting aid indirectly through the parents. Monitoring of schools will go far beyond searching for criminal acts or health and safety issues; intrusion on the selection and dismissal process can be predicted.

Some other observations of minor phenomema connected with public funding may be mentioned here:

1. State school bus transporation is wasting hours in the students' day, keeping them from studying, participating in activities, or taking advantage of the after-school help by a devoted teacher. Trustees ask, "Why provide bus transporation since that is a service owed to and gladly received by the parents?" The Head shifts schedules to accommodate the public bus. Little is seen of mothers or fathers who used to drop by the school to leave or pick-up the students. (I know its not true, but a devious superintendent could wipe out an independent school through his transporation director.)

   Recently I suggested adding 15 minutes onto the school day to a parish high school so that with some scheduling adjustments they could avoid building a $60,000 science lab. "Forget it," the principal said, "I can't change the buses."

2. The 3,000+ pupil Punahou School in Honolulu has abandoned federal aid in the past because of the paper work involved. Although this is more often connected with categorical aid, let us not forget what has been thrust upon small recipients in the name of accountability. Rigorous and meaningful accountability might not be bad, but input (no indicators of student achievement).

3. When setting tuitions, average tuitions or cost per students may have been often indirectly limiting the vision of contract schools. Allowing only half of what a scholarship student pays to be refundable for an inner-city parent may not allow tuitions to be high enough. Yet if the base tuition (not including scholarship) is used, to establish a refundable tax credit, the state will undoubtedly establish bounds of allowable per student cost. This will have small effect on inner city schools, since arguments cite the low per pupil cost. Yet it will have significant impact on small class, suburbar schools. Some of the problems with attracting students to economical schools probably pertain to class-size which effects tuition dramatically. Reduction of class size may eventually raise per pupil costs of inner-city schools, making them equally susceptible to establishment of per pupil allowances.

4. The tax-credit has been advocated from a non-entanglement vantage. But it should be remembered that we are dealing with a duty of the state and children. Election campaigns and energy do not have the same gut worth, nor state obligation. (These areas of concern do have tax credit privileges.)

5. Other forms of governmental aid, as in child-care deductions for employment might be better exploited by schools. Yet the chance of survival of such deduction, is slim after tax reform.

6. Competitive grants and the "Partnerships in Education" are not large sources of funds for non-public schools, but might be in the future. The one Partnership in Education mentioned at the recent NAIS meeting was the only one mentioned in a Dept. of Education document explaining the program at the NAIS Annual

Meeting.

In summary, I advocate funding non-public schools, through traditional means of:

1. non-deductible tuitions
2. tax deductible donations
3. limited categorical aid
4. competitive grants
5. textbook loans (although I see no problem with maps)
6. child-care deductions

In addition, inner-city schools with low income constituencies can be aided through refundable tax credits, contracting, or non-governmental mechanism through churches. It is the inner-city schools that still have the need and would benefit from additional aid, no matter what the side effects. Existence is at question here.

Our clients have not yet raised tuition so high as to hurt enrollment pressure, in fact enrollment increases when program is improved because of the added tuition revenues. The marketplace seems to reward schools serving the needs of reasonably affluent populations. Many parents today have more disposable income because families have fewer children and often both parents are working. Many single parents are sacrificing to enroll children in non-public schools. Admittedly, inner-city families do not share the economic characteristics with other populations.

Aside from entanglement problems when public school funds go to benefit non-public schools or when states hold benefactors of non-public school aid accountable for delivering a legitimate education, several problems of receiving income from outside the marketplace can be seen from within the non-public school, not by constitutional law analysis. Non-public schools have thrived by (among many other attributes):

1. being able to select or dismiss students without constitutional restrictions,

2. often advocating a pervasive valve structure not permissible in a public school,

3. having purely a contractual, employment-at-will relationship with employees,

4. having relative autonomy of parents to decide how their children should be educated, with little accountability to the state,

5. having a close parent involvement often associated with lack of state funding,

6. having efficient operation unfettered by red tape and forms completion,

7. having operational autonomy in budgeting, curriculum, transporation, and sports,

and 8. having non-unionized teachers to a high degree and non-tenured charismatic leadership.

Additional governmental aid would encroach upon these attributes. When a school's existence is threatened by the true inability of the constituents to afford a non-public, quality education, the side-effects of receiving increased state or federal aid are probably worthwhile considering the alternative of non-existence. (However, when a not-for-profit corporation ceases to receive normal support, the value of its existence should be evaluated. This has been done in the case of inner-city religious schools.)

Even the schools with constituents of very modest means should try or arrange for bold curricular, service, and financial action. Since no school is perfect, satisfaction is always relative and probably is never fully satisfied. But the marketplace does exert pressure on the "less fit" schools to improve or cease to exist. My marketplace rationale never claims to offer schools completely satisfactory to the public.

Cibulka (op. cit. p. 185) cites a second defect in the marketplace model, called "false consciousness." Here the consumer picks the school which appears to best satisfy the student's needs. However, the person(s) choosing the school (parent and/or student) can be mistaken. Even collectively, a school may be so good at deluding the public at large as to attract enough students to exist, but not to offer quality education. For instance, having top quality sports teams and many microcomputers might be attractive but not what students really need. Even Cibulka's suggestion of using a political perspective in conjunction with a market perspective does not prevent such judgmental error in applying his preference model to fostering effective schooling options. It appears that all education, public and non-public, can suffer from misguided desires of the public. Here is where the art of educational leadership is practiced; this is why we teach educators philosophy and need liberal arts graduates in our schools. Where is the public clamor demanding more life-time sports, listening or economics education? Where was the public awareness of deficits in science education prior to Sputnik? Public acceptance of educational insight and practice is always measured by numbers of applications to non-public schools and the several political indicators in public school management. All are subject to error, but the non-public marketplace is the most direct and responsive measure. Without subsidy or additional governmental aid, the marketplace exerts a constructive force on heads, development officers, admissions officers, and teachers to perform so that the institution attracts students.

There is wealth in the United States that will pay for what parents or philanthropists feel is excellence in education. This healthy drive to attract students may be lessened by subsidy or replaced by complacency cultivated by too much governmental aid. With full governmental aid, some public schools seem to exist for the employees, rather than students. When such a state of affairs exists, the state invariably must step in with a significant program of accountability which is often not as effective as marketplace pressure among non-public schools. Accountability will

probably involve excessive entanglement to avoid subsidizing schools that do not better society nor the student.

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